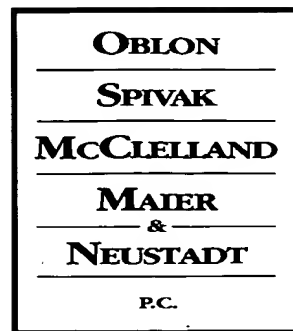




Docket No.: 5244-0126-2

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313



ATTORNEYS AT LAW

RECEIVED 6-5-03

MAY 29 2003

Technology Center 2100

RE: Application Serial No.: 09/453,937  
Applicants: Tetsuro MOTOYAMA, et al.  
Filing Date: May 17, 2000  
For: METHOD AND SYSTEM OF REMOTE  
DIAGNOSTIC, CONTROL AND INFORMATION...  
Group Art Unit: 2153  
Examiner: LE, H.

SIR:

Attached hereto for filing are the following papers:

**COMBINED REQUEST FOR INTERVIEW AND REQUEST FOR CONSIDERATION**

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Eckhard H. Kuesters  
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Michael R. Casey, Ph.D.  
Registration No. 40,294



Docket No. 5244-0126-2

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:

:

Tetsuro MOTOYAMA et al.

: EXAMINER: LE, H.

SERIAL NO: 09/453,937

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FILED: May 17, 2000

: GROUP ART UNIT: 2153

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MAY 29 2003

Technology Center 2100

FOR: METHOD AND SYSTEM OF REMOTE DIAGNOSTIC, CONTROL AND...

COMBINED REQUEST FOR INTERVIEW AND REQUEST FOR RECONSIDERATION

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

REQUEST FOR PERSONAL INTERVIEW

Prior to a next action on the merits, it is requested that a personal interview be granted to Applicants' undersigned representative. The Examiner is requested to contact the undersigned at 703-413-3000 to find a mutually agreeable time to conduct the interview.

REQUEST FOR RECONSIDERATION

In response to the Office Action dated February 24, 2003, Applicants respectfully submit the following remarks.

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested. Claims 1-9 and 11-20 are pending in the present application. No claims have been amended herewith.

In response to the indication that the proposed drawing change filed December 13, 2003 was approved, and the objection to the drawings under 37 CFR 1.83(a) was withdrawn in response to the Applicant's amendment filed December 13, 2003, Applicant submits herewith a copy of formal drawings incorporating any changes required by the Examiner and Draftsperson.

In the outstanding Office Action, claims 1-6, 9, 11-13, and 18-20 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,818,603 (hereinafter "the '603 patent") in view of U.S. Patent No. 5,842,039 (hereinafter "the '039 patent"); and the remaining pending claims were rejected under 35 U.S.C. § 103(a) as unpatentable over the '603 patent in view of the '039 patent and further in view of U.S. Patent No. 5,911,776 (hereinafter "the '776 patent").

In response to the rejections of claims 1-6, 9, 11-13, and 18-20 under 35 U.S.C. § 103(a), Applicants respectfully traverse the rejection. The Office Action admits that the '603 patent does not disclose the sixth and seventh computer code devices as describe below:

a sixth computer code device configured to attempt to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the first format processor;

a seventh computer code device configured to attempt to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the second format processor after attempting to transfer the collected events between the remote receiver and the at least one of a device, an appliance, an application and an application unit using the first format processor, wherein the seventh computer code device is configured to check for a transmission failure before transferring the collected events using the second format.

However, the Office Action asserts that the '039 patent discloses these limitations. Specifically, the Office Action states "In other words, [the '039 patent] sends the message using a first format, if that fails a determination or check procedure, then the message is sent again using the second format." However, in the '039 patent, it is the HHP (Hand Held Programmer) that is sending but the controller that is changing transmission protocols. The '039 patent expressly state that the HHP does not change protocols at all.<sup>1</sup> Moreover, the controller 10 changes protocols based on what is received, not based on an error in transmission. Thus, no component in the '039 patent changes transmission protocols based on an error in transmission. Accordingly, since the '039 patent does not teach the same positively recited limitations not taught by the '603 patent, the combination of references does not teach the same limitations not taught by the references individually. Thus, claim 1 and its dependent claims 2-17 are patentably distinguishing over the cited references and should be indicated as allowable.

Claim 18 recites similar limitations to the limitations of claim 1 discussed above. Thus, claim 18 (and its dependent claims 19 and 20) should also be allowable for reasons analogous to the reasons set forth for the patentability of claim 1 above.

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<sup>1</sup> "HHPs ... only communicate in the DF1 protocol." Col. 2, line 13.

Consequently, in view of the present amendment and in light of the above discussions, the outstanding grounds for rejection are believed to have been overcome and in condition for allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



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